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DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

Schulte Roth & Zabel LLP
919 Third Avenue
New York NY 10022

In re Application of
Masayuki Takayama, et al.
Application No. 09/621,045
Filed: July 21, 2000
For: **MOBILE TELEPHONE SET**

This is a decision on the request for reconsideration filed May 31, 2005. No fee is required.

This application was held abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance mailed October 24, 2003. A Notice of Abandonment was mailed January 13, 2005.

Petitioner states that the Notice of Allowance was not received. The request for reconsideration was accompanied by a declaration from Anna Vishev and also a copy of a docket record.

Pursuant to MPEP § 711.03(c) [See also Notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not received*, 1156 O.G. 53 (November 16, 1993)], in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating:


- (a) that the Office communication was not received by the practitioner; and
- (b) personally attesting to a search of the file jacket and docket records indicates that the Office communication was not received;

In addition, the petition must include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has satisfied the requirements set forth above in the petition filed December 20, 2002.

Accordingly, the petition is **GRANTED**. The holding of Abandonment is hereby withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for preparation of, and mailing a new Notice of Allowance. Given that it has been established that applicants did not receive the Notice of Allowance, it is also presumed that applicants did not receive a copy of the considered IDS which accompanied the Notice of Allowance. Therefore, the technical support staff will also re-mail a copy of the considered IDS with the new Notice of Allowance.


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Technology Center 2600
Communications